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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,422	08/31/2001	John Joseph DiEnno	9D-DW-19893	7785

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,422

Applicant(s)

DIENNO ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6 and 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 7, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 & 7-9 are still rejected under 35 U.S.C. 102(b) as being anticipated by Kobos et al. Kobos (figures 1-6) teaches of an escutcheon (fig. 4) for an appliance door assembly as structurally depicted in previously submitted Exhibit A [claims 1-2] and Exhibit B [claims 7-9].

Allowable Subject Matter

4. Pending further review and consideration [see below], Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed December 7, 2004 have been fully considered but they are not persuasive. The examiner would like to reiterate that some clarification is still in order to definitively distinguish aspects of the "retaining slot" as set forth in claim 1. As noted on page 9 of the specification - see [0031] to [0033], the slot is identified as reference no. 232 and defined in relation to the "lead-in flange 230 and lip 228". The slot is later defined in relation to "rib 212 and escutcheon lip". As such, the recitation "a plurality of formations depending from the lower edge and defining a retaining slot" [claim 1] is interpreted in view of the flange and lip structures. It is noted that the flange may be reinforced via the ribs, but the "slot" is not necessarily defined solely by the "ribs" in question. As such, it is deemed that the "formations" must either constitute the flange and lip or the combination of the flange, ribs and lip. The examiner has taken the position that the combination of the flange, ribs and lip define the "formations" [wherein the "formations" comprise positioning ribs – however, it is not clear if the ribs constitute a portion of the formations [as interpreted by the examiner] **or** are the formations]. Clarification concerning applicant's intent is requested in view of the potentially allowable subject matter.

6. The examiner has taken a reasonably broad interpretation of the limitation "escutcheon" as defining a protective plate [Webster's II New riverside University Dictionary 1994]. The "plate" of the cited art being analogous to applicant's "plate" in the sense that they both are three-dimensional structures [not just planar members]. Accordingly, the position is taken that the submitted exhibits sufficiently encompass the broadly claimed features as set forth. In regards to applicant's remarks that the "mounting surface" does not extend "upwardly and inwardly from a lower edge and

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between front and rear edges of the escutcheon” note the following: The position is taken that Exhibit A adequately depicts the mounting surface as having upwardly and inwardly extending elements [in the sense that these qualitative features are dependent upon a viewed orientation that may vary] and elements between [in the sense that these elements are located within a vertical boundary] front and rear edges of the escutcheon. As to applicant’s remarks that the cited reference does not show “formations”, as described, depending from a lower edge, note the following: A reference to the first paragraph in this section is in order since the recitation involving the “formations” limitation is so broad that one can reasonably define numerous structural elements to meet the claim; additionally, it is viewed that Exhibit B adequately depicts “formations” each having a “guide surface” formed at an acute angle with the lower edge, the guide surfaces [each formation having one surface] defining the slot as clearly represented and a panel engagement portion.

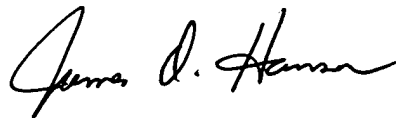
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
February 3, 2005